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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.                | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------------------|------------------|
| 10/691,960  | 10/24/2003  | Nobuo Matsuyama      | 031251                             | 6978             |
| 23850 7590 01/31/2007<br>ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP<br>1725 K STREET, NW<br>SUITE 1000<br>WASHINGTON, DC 20006 |             |                      | EXAMINER<br>VANAMAN, FRANK BENNETT |                  |
|   |             |                      | ART UNIT<br>3618                   | PAPER NUMBER     |
| SHORTENED STATUTORY PERIOD OF RESPONSE  |             | MAIL DATE            | DELIVERY MODE                      |                  |
| 3 MONTHS  |             | 01/31/2007           | PAPER                              |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/691,960

Applicant(s)

MATSUYAMA, NOBUO

Examiner

Frank Vanaman

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**Continued Examination Under 37 CFR 1.114**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Nov 30, 2006 has been entered.

**Status of Application**

2. Claims 2-6 remain pending, with claim 6 (independent) having been amended.

**Claim Rejections - 35 USC § 103**

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 6 (independent) and 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bohrer (US 2002/0121399, published 5 September 2002, filed 21 February 2002).

Bohrer teaches a hydraulically driven vehicle having a motor (16) driven in a stepless manner by pressure oil from a pump (14) for driving the vehicle, wherein a maximum output set by a maximum angle of tilt of a swashplate of the pump or motor (see page 2, paragraph 0021, lines 7-9) may be changed (paragraph 0023) by an electronic control (22) under the effect of a selecting means (36), and further teaches that a maximum output may be set by a control (paragraph 0024, lines 3-7) in the form of a switch (stepped change actuator) or potentiometer (step-less change actuator), and which may be manipulated by a service person operating that control (and performing as an operator to the breadth claimed), and wherein the result of the operation of the control is manifested in the operation of the vehicle under operational (i.e., working) conditions. Bohrer further describes that this arrangement may be operated without being limited to a particular gear ratio (see page 3, paragraphs 0027, 0028), the speed being programmable and the process operating at such time as the set speed is exceeded. The reference to Bohrer fails to explicitly state that the arrangement is

operable under any working condition of the vehicle. Inasmuch as Bohrer does teach an embodiment wherein a maximum drive is limited without regard to the shift position, and inasmuch as it is well known to adjust an output range of a controller, it would have been obvious to one of ordinary skill in the art at the time of the invention to extend the range of the arrangement for setting the maximum speed so as to be variable over a wider range of maximum values, the lowest of which being achievable in the lowest vehicle gear, so as to limit the vehicle speed to a lower speed achievable in any of the working gears, for the purpose of further limiting maximum speed in hazardous environments (e.g., confined spaces).

Claim 4 and claim 5 as dependent upon 4: Bohrer fails to teach the minimum tilt angle being adjustable. It is well known to adjust a lower end of a drive range to allow either a creep speed or to overcome internal friction in a drive train, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide an adjustment for a minimum tilt angle so as to allow, for example, the setting of a creep speed or to provide a setting which overcomes internal friction in the drive train.

### **Response to Comments**

5. Applicant's comments, filed with the amendment, have been carefully considered. Applicant has asserted that the reference to Bohrer fails to anticipate the claims as now amended. The examiner agrees. Note however, that Bohrer, long of record, teaches an alternate embodiment (see paragraphs 0027, 0028) otherwise operating similarly to the first disclosed embodiment, wherein the limiting arrangement is not dependent upon a shift setting to be active, rather it is continuously active, and at any time a speed increases beyond a set threshold, regardless of shift setting, the limiting arrangement is called into action. The examiner notes that such an embodiment does not explicitly operate in "any working condition" of the vehicle, however it is not deemed to be beyond the skill of the ordinary practitioner to adjust the range of the arrangement, as set forth above, so as to allow a greater range of limit values, for example, including speeds which may be achieved in any shift setting of the vehicle.

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### Conclusion

6. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

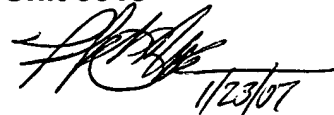
A response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

**F. VANAMAN**  
**Primary Examiner**  
**Art Unit 3618**



1/23/07